

REFERENCE TITLE: PSPRS; omnibus amendments

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HB 2327

Introduced by
Representative Boone

AN ACT

AMENDING SECTIONS 20-224, 38-841, 38-842, 38-843, 38-844.03, 38-844.10, 38-846, 38-847, 38-848, 38-848.03, 38-849 AND 38-853.01, ARIZONA REVISED STATUTES; RELATING TO THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-224, Arizona Revised Statutes, is amended to
3 read:

4 20-224. Premium tax

5 A. On or before March 1 of each year, each authorized domestic
6 insurer, each other insurer and each formerly authorized insurer referred to
7 in section 20-206, subsection B, ~~shall~~ shall file with the director a report in a
8 form prescribed by the director showing total direct premium income including
9 policy membership and other fees and all other considerations for insurance
10 from all classes of business whether designated as a premium or otherwise
11 received by it during the preceding calendar year on account of policies and
12 contracts covering property, subjects or risks located, resident or to be
13 performed in this state, after deducting from such total direct premium
14 income applicable cancellations, returned premiums, the amount of reduction
15 in or refund of premiums allowed to industrial life policyholders for payment
16 of premiums direct to an office of the insurer and all policy dividends,
17 refunds, savings coupons and other similar returns paid or credited to
18 policyholders within this state and not reapplied as premiums for new,
19 additional or extended insurance. No deduction shall be made of the cash
20 surrender values of policies or contracts. Considerations received on
21 annuity contracts, as well as the unabsorbed portion of any premium deposit,
22 shall not be included in total direct premium income, and neither shall be
23 subject to tax. The report shall separately indicate the total direct
24 premium income received from fire insurance premiums on property located in
25 an incorporated city or town that procures the services of a private fire
26 company.

27 B. Coincident with the filing of such tax report each insurer shall
28 pay to the director for deposit, pursuant to sections 35-146 and 35-147, a
29 tax of 2.0 per cent of such net premiums, except that the tax on fire
30 insurance premiums on property located in an incorporated city or town ~~which~~
31 ~~THAT~~ procures the services of a private fire company is .66 per cent, the tax
32 on all other fire insurance premiums is 2.2 per cent and the tax on health
33 care service and disability insurance premiums is as prescribed under
34 sections 20-837, 20-1010 and 20-1060. Any payments of tax pursuant to
35 subsection E of this section shall be deducted from the tax payable pursuant
36 to this subsection. Each insurer shall reflect the cost savings attributable
37 to the lower tax in fire insurance premiums charged on property located in an
38 incorporated city or town that procures the services of a private fire
39 company.

40 C. Eighty-five per cent of the tax paid ~~hereunder~~ by an insurer on
41 account of premiums received for fire insurance shall be separately specified
42 in the report and shall be apportioned in the manner provided by sections
43 9-951, 9-952 and 9-972, except that all of the tax so allocated to a fund of
44 a municipality ~~which~~ ~~OR FIRE DISTRICT THAT~~ has no volunteer fire fighters or
45 pension obligations to volunteer fire fighters shall be appropriated to the

1 account of the municipality OR FIRE DISTRICT in the public safety personnel
 2 retirement system and all of the tax so allocated to a fund of a municipality
 3 ~~which~~ OR FIRE DISTRICT THAT has both full-time paid fire fighters and
 4 volunteer fire fighters or pension obligations to full-time paid fire
 5 fighters or volunteer fire fighters shall be appropriated to the account of
 6 the municipality OR FIRE DISTRICT in the public safety personnel retirement
 7 system where it shall be reallocated by actuarial procedures proportionately
 8 to the municipality OR FIRE DISTRICT for the account of the full-time paid
 9 fire fighters and to the municipality OR FIRE DISTRICT for the account of the
 10 volunteer fire fighters. A MUNICIPALITY OR FIRE DISTRICT SHALL PROVIDE TO
 11 THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM ALL INFORMATION THAT THE SYSTEM
 12 DEEMS NECESSARY TO PERFORM THE REALLOCATION PRESCRIBED BY THIS SECTION. A
 13 full accounting of such reallocation shall be forwarded to the municipality
 14 OR FIRE DISTRICT and ~~both~~ THEIR local boards.

15 D. This section shall not apply to title insurance, and such insurers
 16 shall be taxed as provided in section 20-1566.

17 E. Any insurer ~~which~~ THAT paid or is required to pay a tax of two
 18 thousand dollars or more on net premiums received during the preceding
 19 calendar year, pursuant to subsection B of this section and sections
 20 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07, shall file on or before
 21 the fifteenth day of each month from March through August a report for that
 22 month, on a form prescribed by the director, accompanied by a payment in an
 23 amount equal to fifteen per cent of the amount paid or required to be paid
 24 during the preceding calendar year pursuant to subsection B of this section
 25 and sections 20-224.01, 20-837, 20-1010, 20-1060 and 20-1097.07. The
 26 payments are due and payable on or before the fifteenth day of each month and
 27 shall be made to the director for deposit, pursuant to sections 35-146 and
 28 35-147.

29 F. Except for the tax paid on fire insurance premiums pursuant to
 30 subsections B and C of this section, an insurer may claim a premium tax
 31 credit if the insurer qualifies for a credit pursuant to section 20-224.03 or
 32 20-224.04.

33 Sec. 2. Section 38-841, Arizona Revised Statutes, is amended to read:

34 ~~38-841.~~ Purpose; vested benefits

35 A. ~~Prior to~~ BEFORE the establishment of the public safety personnel
 36 retirement system, municipal firemen and policemen, employees of the Arizona
 37 highway patrol, and other public safety personnel in the state of Arizona
 38 were covered under various local, municipal, ~~and~~ state retirement
 39 programs. These heterogeneous programs provided for wide and significant
 40 differentials in employee contribution rates, benefit eligibility provisions,
 41 types of benefit protection, ~~and~~ benefit formulas.

42 B. In order to provide a uniform, consistent and equitable statewide
 43 program for public safety personnel who are regularly assigned hazardous duty
 44 in the employ of the state of Arizona or a political subdivision thereof,
 45 this retirement system was created effective as of July 1, 1968, as an

1 amendment to and continuation of three prior systems. Groups of employees
2 covered under the three prior systems as of June 30, 1968, and the assets and
3 liabilities accumulated thereunder for such employees, are transferred with
4 prior service credits to this retirement system as of the effective date, and
5 both they and their employers shall be required to make stipulated
6 contributions to support the system's benefit structure on a sound actuarial
7 basis. Future employees in such groups shall commence participation in, and
8 contributions to, the system immediately ~~upon~~ ON commencement of covered
9 employment.

10 C. The provisions of this system shall not be construed to authorize
11 the granting of any retirement benefits to persons who are retired as of the
12 effective date of this article, except as described in sections 38-849 and
13 38-853.

14 D. Additional eligible groups of public safety personnel will
15 participate in the system pursuant to election by their employer for such
16 coverage under an appropriate joinder agreement.

17 E. THE PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM IS A JURAL ENTITY
18 THAT MAY SUE AND BE SUED.

19 Sec. 3. Section 38-842, Arizona Revised Statutes, is amended to read:
20 38-842. Definitions

21 In this article, unless the context otherwise requires:

22 1. "Accidental disability" means a physical or mental condition that
23 the local board finds totally and permanently prevents an employee from
24 performing a reasonable range of duties within the employee's job
25 classification and that was incurred in the performance of the employee's
26 duty.

27 2. "Accumulated contributions" means, for each member, the sum of the
28 amount of the member's aggregate contributions made to the fund and the
29 amount, if any, attributable to the employee's contributions ~~prior to~~ BEFORE
30 the member's effective date under another public retirement system, other
31 than the federal social security act, and transferred to the fund minus the
32 benefits paid to or on behalf of the member.

33 3. "Actuarial equivalent" means equality in present value of the
34 aggregate amounts expected to be received under two different forms of
35 payment, based on mortality and interest assumptions adopted by the fund
36 manager. The fund manager may from time to time change the mortality and
37 interest assumptions.

38 4. "Alternate payee" means the spouse or former spouse of a
39 participant as designated in a domestic relations order.

40 5. "Alternate payee's portion" means benefits that are payable to an
41 alternate payee pursuant to a plan approved domestic relations order.

42 6. "Average monthly benefit compensation" means the result obtained by
43 dividing the total compensation paid to an employee during a considered
44 period by the number of months, including fractional months, in which such
45 compensation was received. The considered period shall be the three

1 consecutive years within the last twenty completed years of credited service
2 that yield the highest average. In the computation under this paragraph, a
3 period of nonpaid or partially paid industrial leave shall be considered
4 based on the compensation the employee would have received in the employee's
5 job classification if the employee was not on industrial leave.

6 7. "Catastrophic disability" means a physical and not a psychological
7 condition that the local board determines prevents the employee from totally
8 and permanently engaging in any gainful employment and that results from a
9 physical injury incurred in the performance of the employee's duty.

10 8. "Certified peace officer" means a peace officer certified by the
11 Arizona peace officers standards and training board.

12 9. "Claimant" means any member or beneficiary who files an application
13 for benefits pursuant to this article.

14 10. "Compensation" means, for the purpose of computing retirement
15 benefits, base salary, overtime pay, shift differential pay and holiday pay
16 paid to an employee by the employer on a regular monthly, semimonthly or
17 biweekly payroll basis and longevity pay paid to an employee at least every
18 six months for which contributions are made to the system pursuant to section
19 38-843, subsection D. Compensation does not include, for the purpose of
20 computing retirement benefits, payment for unused sick leave, payment in lieu
21 of vacation, payment for compensatory time, **PAYMENT FOR SERVICES PERFORMED**
22 **WHILE NOT PART OF AN ELIGIBLE GROUP** or payment for any fringe benefits. For
23 the purposes of this paragraph, "base salary" means the amount of
24 compensation each employee is regularly paid for personal services rendered
25 to an employer before the addition of any extra monies, including overtime
26 pay, shift differential pay, holiday pay, longevity pay, fringe benefit pay
27 and similar extra payments.

28 11. "Credited service" means the member's total period of service ~~prior~~
29 ~~to~~ **BEFORE** the member's effective date of participation, plus those
30 compensated periods of the member's service thereafter for which the member
31 made contributions to the fund.

32 12. "Cure period" means the ninety-day period in which a participant or
33 alternate payee may submit an amended domestic relations order and request a
34 determination, calculated from the time the system issues a determination
35 finding that a previously submitted domestic relations order did not qualify
36 as a plan approved domestic relations order.

37 13. "Depository" means a bank in which all monies of the system are
38 deposited and held and from which all expenditures for benefits, expenses and
39 investments are disbursed.

40 14. "Determination" means a written document that indicates to a
41 participant and alternate payee whether a domestic relations order qualifies
42 as a plan approved domestic relations order.

43 15. "Determination period" means the ninety-day period in which the
44 system must review a domestic relations order that is submitted by a
45 participant or alternate payee to determine whether the domestic relations

1 order qualifies as a plan approved domestic relations order, calculated from
2 the time the system mails a notice of receipt to the participant and
3 alternate payee.

4 16. "Domestic relations order" means an order of a court of this state
5 that is made pursuant to the domestic relations laws of this state and that
6 creates or recognizes the existence of an alternate payee's right to, or
7 assigns to an alternate payee the right to, receive a portion of the benefits
8 payable to a participant.

9 17. "Effective date of participation" means July 1, 1968, except with
10 respect to employers and their covered employees whose contributions to the
11 fund commence thereafter, the effective date of their participation in the
12 system is as specified in the applicable joinder agreement.

13 18. "Effective date of vesting" means the date a member's rights to
14 benefits vest pursuant to section 38-844.01.

15 19. "Eligible child" means ~~the~~ AN unmarried child of a deceased member
16 OR RETIRED MEMBER who MEETS ONE OF THE FOLLOWING QUALIFICATIONS:

17 (a) Is under ~~the age of~~ eighteen YEARS OF AGE. ~~or~~

18 (b) IS AT LEAST EIGHTEEN YEARS OF AGE AND UNDER TWENTY-THREE YEARS OF
19 AGE ONLY DURING ANY PERIOD THAT THE CHILD IS a full-time student. ~~who is~~
20 ~~under the age of twenty-three or~~

21 (c) IS under a disability that began before the child attained ~~the age~~
22 ~~of~~ twenty-three YEARS OF AGE and ~~who~~ remains a dependent of the surviving
23 spouse or guardian.

24 20. "Eligible groups" means only the following who are regularly
25 assigned to hazardous duty:

26 (a) Municipal police officers who are certified peace officers.

27 (b) Municipal fire fighters.

28 (c) Paid full-time fire fighters employed directly by a fire district
29 organized pursuant to section 48-803 or 48-804 with three or more full-time
30 fire fighters, but not including fire fighters employed by a fire district
31 pursuant to a contract with a corporation.

32 (d) State highway patrol officers who are certified peace officers.

33 (e) State fire fighters.

34 (f) County sheriffs and deputies who are certified peace officers.

35 (g) Game and fish wardens who are certified peace officers.

36 (h) Police officers who are certified peace officers and fire fighters
37 of a nonprofit corporation operating a public airport pursuant to sections
38 28-8423 and 28-8424. A police officer shall be designated pursuant to
39 section 28-8426 to aid and supplement state and local law enforcement
40 agencies and a fire fighter's sole duty shall be to perform fire fighting
41 services, including services required by federal regulations.

42 (i) Police officers who are certified peace officers and who are
43 appointed by the Arizona board of regents.

44 (j) Police officers who are certified peace officers and who are
45 appointed by a community college district governing board.

1 (k) State attorney general investigators who are certified peace
2 officers.

3 (l) County attorney investigators who are certified peace officers.

4 (m) Police officers who are certified peace officers and who are
5 employed by an Indian reservation police agency.

6 (n) Fire fighters who are employed by an Indian reservation fire
7 fighting agency.

8 (o) Police officers who are certified peace officers and who are
9 appointed by the department of administration.

10 (p) Department of liquor licenses and control investigators who are
11 certified peace officers.

12 (q) Arizona department of agriculture officers who are certified peace
13 officers.

14 (r) Arizona state parks board rangers and managers who are certified
15 peace officers.

16 (s) County park rangers who are certified peace officers.

17 21. "Employee" means any person who is employed by a participating
18 employer and who is a member of an eligible group but does not include any
19 persons compensated on a contractual or fee basis. If an eligible group
20 requires certified peace officer status and at the option of the local board,
21 employee may include a person who is training to become a certified peace
22 officer.

23 22. "Employers" means:

24 (a) Cities contributing to the fire fighters' relief and pension fund
25 as provided in sections 9-951 through 9-971 or statutes amended thereby and
26 antecedent thereto, as of June 30, 1968 on behalf of their full-time paid
27 fire fighters.

28 (b) Cities contributing under the state police pension laws as
29 provided in sections 9-911 through 9-934 or statutes amended thereby and
30 antecedent thereto, as of June 30, 1968 on behalf of their municipal
31 policemen.

32 (c) The state highway patrol covered under the state highway patrol
33 retirement system.

34 (d) The state, or any political subdivision of this state, including
35 towns, cities, fire districts, counties and nonprofit corporations operating
36 public airports pursuant to sections 28-8423 and 28-8424, that has elected to
37 participate in the system on behalf of an eligible group of public safety
38 personnel pursuant to a joinder agreement entered into after July 1, 1968.

39 (e) Indian tribes that have elected to participate in the system on
40 behalf of an eligible group of public safety personnel pursuant to a joinder
41 agreement entered into after July 1, 1968.

42 23. "Fund" means the public safety personnel retirement fund, which is
43 the fund established to receive and invest contributions accumulated under
44 the system and from which benefits are paid.

24. "Fund manager" means the fund manager of the system, who are the persons appointed to invest and operate the fund.

25. "Local board" means the retirement board of the employer, who are the persons appointed to administer the system as it applies to their members in the system.

26. "Member" means any FULL-TIME employee who meets all of the following qualifications:

(a) Who is either a ~~full-time~~ paid municipal police officer, a ~~full-time~~ paid fire fighter, a law enforcement officer who is employed by this state including the director thereof, a state fire fighter who is primarily assigned to fire fighting duties, a fire fighter or police officer of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement merit system council, a state attorney general investigator who is a certified peace officer, a county attorney investigator who is a certified peace officer, a police officer who is appointed by the department of administration and who is a certified peace officer, a department of liquor licenses and control investigator who is a certified peace officer, an Arizona department of agriculture officer who is a certified peace officer, an Arizona state parks board ranger or manager who is a certified peace officer, a county park ranger who is a certified peace officer, a person who is a certified peace officer and who is employed by an Indian reservation police agency, a fire fighter who is employed by an Indian reservation fire fighting agency or an employee included in a group designated as eligible employees under a joinder agreement entered into by their employer after July 1, 1968 and who is or was regularly assigned to hazardous duty.

(b) Who, on or after the employee's effective date of participation, is receiving compensation for personal services rendered to an employer or would be receiving compensation except for an authorized leave of absence.

(c) Whose employment with an employer commenced ~~prior to~~ BEFORE attainment of age fifty.

(d) Whose customary employment is at least forty hours per week ~~and for more than six months in a calendar year~~ OR, FOR THOSE EMPLOYEES WHO CUSTOMARILY WORK FLUCTUATING WORK WEEKS, WHOSE CUSTOMARY EMPLOYMENT AVERAGES AT LEAST FORTY HOURS PER WEEK.

(e) WHO IS ENGAGED TO WORK FOR MORE THAN SIX MONTHS IN A CALENDAR YEAR.

~~(e)~~ (f) Who has not attained age sixty-five ~~prior to~~ BEFORE the employee's effective date of participation or who was over age sixty-five with twenty-five years or more of service ~~prior to~~ BEFORE the employee's effective date of participation.

27. "Normal retirement date" means the first day of the calendar month immediately following an employee's completion of twenty years of service or the employee's sixty-second birthday and the employee's completion of fifteen years of service.

1 28. "Notice of receipt" means a written document that is issued by the
2 system to a participant and alternate payee and that states that the system
3 has received a domestic relations order and a request for a determination
4 that the domestic relations order is a plan approved domestic relations
5 order.

6 29. "Ordinary disability" means a physical condition that the local
7 board determines will prevent an employee totally and permanently from
8 performing a reasonable range of duties within the employee's department or a
9 mental condition that the local board determines will prevent an employee
10 totally and permanently from engaging in any substantial gainful activity.

11 30. "Participant" means a member who is subject to a domestic relations
12 order.

13 31. "Participant's portion" means benefits that are payable to a
14 participant pursuant to a plan approved domestic relations order.

15 32. "Pension" means a series of monthly amounts that are payable to a
16 person who is entitled to receive benefits under the plan.

17 33. "Personal representative" means the personal representative of a
18 deceased alternate payee.

19 34. "Plan approved domestic relations order" means a domestic relations
20 order that the system approves as meeting all the requirements for a plan
21 approved domestic relations order as otherwise prescribed in this article.

22 35. "Regularly assigned to hazardous duty" means regularly assigned to
23 duties of the type normally expected of municipal police officers, municipal
24 or state fire fighters, eligible fire district fire fighters, state highway
25 patrol officers, county sheriffs and deputies, fish and game wardens, fire
26 fighters and police officers of a nonprofit corporation operating a public
27 airport pursuant to sections 28-8423 and 28-8424, police officers who are
28 appointed by the Arizona board of regents or a community college district
29 governing board, state attorney general investigators who are certified peace
30 officers, county attorney investigators who are certified peace officers,
31 police officers who are appointed by the department of administration and who
32 are certified peace officers, department of liquor licenses and control
33 investigators who are certified peace officers, Arizona department of
34 agriculture officers who are certified peace officers, Arizona state parks
35 board rangers and managers who are certified peace officers, county park
36 rangers who are certified peace officers, police officers who are certified
37 peace officers and who are employed by an Indian reservation police agency or
38 fire fighters who are employed by an Indian reservation fire fighting
39 agency. Those individuals who are assigned solely to support duties such as
40 secretaries, stenographers, clerical personnel, clerks, cooks, maintenance
41 personnel, mechanics and dispatchers are not assigned to hazardous duty
42 regardless of their position classification title. Since the normal duties
43 of those jobs described in this paragraph are constantly changing, questions
44 as to whether a person is or was previously regularly assigned to hazardous

1 duty shall be resolved by the local board on a case-by-case basis.
2 Resolutions by local boards are subject to rehearing and appeal.

3 36. "Retirement" OR "RETIRED" means termination of employment after a
4 member has fulfilled all requirements for a pension. Retirement shall be
5 considered as commencing on the first day of the month immediately following
6 a member's last day of employment or authorized leave of absence, if later.

7 37. "Segregated funds" means the amount of benefits that would
8 currently be payable to an alternate payee pursuant to a domestic relations
9 order under review by the system, or a domestic relations order submitted to
10 the system that failed to qualify as a plan approved domestic relations
11 order, if the domestic relations order were determined to be a plan approved
12 domestic relations order.

13 38. "Service" means the last period of continuous employment of an
14 employee by the employers ~~prior to~~ BEFORE the employee's retirement ~~or the~~
15 ~~employee's sixty-fifth birthday, whichever first occurs~~, except that if such
16 period includes employment during which the employee would not have qualified
17 as a member had the system then been effective, such as employment as a
18 volunteer fire fighter, then only twenty-five per cent of such noncovered
19 employment shall be considered as service. Any absence that is authorized by
20 an employer shall not be considered as interrupting continuity of employment
21 if the employee returns within the period of authorized absence. Transfers
22 between employers also shall not be considered as interrupting continuity of
23 employment. Any period during which a member is receiving sick leave
24 payments or a temporary disability pension shall be considered as
25 service. Notwithstanding any other provision of this paragraph, any period
26 during which a person was employed as a full-time paid fire fighter for a
27 corporation that contracted with an employer to provide firefighting services
28 on behalf of the employer shall be considered as service if the employer has
29 elected at its option to treat part or all of the period the firefighter
30 worked for the company as service in its applicable joinder agreement. Any
31 reference in this system to the number of years of service of an employee
32 shall be deemed to include fractional portions of a year.

33 39. "State" means the state of Arizona, including any department,
34 office, board, commission, agency or other instrumentality of the state.

35 40. "System" means the public safety personnel retirement system
36 established by this article.

37 41. "Temporary disability" means a physical or mental condition that
38 the local board finds totally and temporarily prevents an employee from
39 performing a reasonable range of duties within the employee's department and
40 that was incurred in the performance of the employee's duty.

41 Sec. 4. Section 38-843, Arizona Revised Statutes, is amended to read:

42 38-843. Contributions

43 A. Each employer who participates in the system on behalf of a group
44 of employees who were covered under a prior public retirement system, other
45 than the federal social security act, shall transfer all securities and

1 monies attributable to the taxes and contributions of the state other than
2 the state contribution to social security, the employer and the employees for
3 the covered group of employees under the other system, such transfer to be
4 made to the fund subject to all existing liabilities and on or within sixty
5 days following the employer's effective date. All monies and securities
6 transferred to the fund shall be credited to the employer's account in the
7 fund. A record of the market value and the cost value of such transferred
8 contributions shall be maintained for actuarial and investment purposes.

9 B. As determined by actuarial valuations reported to the employer and
10 the local board by the fund manager, each employer shall make level per cent
11 of compensation contributions sufficient under such actuarial valuations to
12 meet both the normal cost plus the actuarially determined amount required to
13 amortize the unfunded accrued liability over, beginning July 1, 2005, a
14 rolling period of at least twenty and not more than thirty years that is
15 established by the fund manager taking into account the recommendation of the
16 system's actuary, except that, beginning with fiscal year 2006-2007, except
17 as otherwise provided, the employer contribution rate shall not be less than
18 eight per cent of compensation. For any employer whose actual contribution
19 rate is less than eight per cent of compensation for fiscal year 2006-2007,
20 that employer's contribution rate is not subject to the eight per cent
21 minimum but, for fiscal year 2006-2007 and each year thereafter, shall be at
22 least five per cent and not more than the employer's actual contribution
23 rate. An employer shall have the option of paying a higher level per cent of
24 compensation thereby reducing its unfunded past service liability. An
25 employer shall also have the option of increasing its contributions in order
26 to reduce the contributions required from its members under subsection C,
27 except that if an employer elects this option the employer shall pay the same
28 higher level percentage contribution for all members of the eligible
29 group. During a period when an employee is on industrial leave and the
30 employee elects to continue contributions during the period of industrial
31 leave, the employer shall make the contributions based on the compensation
32 the employee would have received in the employee's job classification if the
33 employee was in normal employment status. All contributions made by the
34 employers and all state taxes allocated to the fund shall be irrevocable and
35 shall be used to pay benefits under the system or to pay expenses of the
36 system and fund. The minimum employer contribution that is paid and that is
37 in excess of the normal cost plus the actuarially determined amount required
38 to amortize the unfunded accrued liability as calculated pursuant to this
39 subsection shall be used to reduce future employer contribution increases and
40 shall not be used to pay for an increase in benefits that are otherwise
41 payable to members. The fund manager shall separately account for these
42 monies in the fund. Forfeitures arising because of severance of employment
43 before a member becomes eligible for a pension or any other reason shall be
44 applied to reduce the cost of the employer, not to increase the benefits
45 otherwise payable to members. After the close of any fiscal year, if the

1 system's actuary determines that the actuarial valuation of an employer's
 2 account contains excess valuation assets other than excess valuation assets
 3 that were in the employer's account as of fiscal year 2004-2005 and is more
 4 than one hundred per cent funded, the fund manager shall account for fifty
 5 per cent of the excess valuation assets in a stabilization reserve
 6 account. After the close of any fiscal year, if the system's actuary
 7 determines that the actuarial valuation of an employer's account has a
 8 valuation asset deficiency and an unfunded actuarial accrued liability, the
 9 fund manager shall use any valuation assets in the stabilization reserve
 10 account for that employer, to the extent available, to limit the decline in
 11 that employer's funding ratio to not more than two per cent.

12 C. Each member, throughout the member's period of service from the
 13 member's effective date of participation, shall contribute to the fund an
 14 amount equal to 7.65 per cent of the member's compensation, except as
 15 provided in subsection B. During a period when an employee is on industrial
 16 leave and the employee elects to continue contributions during the period of
 17 industrial leave, the employee shall make the employee's contribution based
 18 on the compensation the employee would have received in the employee's job
 19 classification if the employee was in normal employment status.
 20 Contributions of members shall be required as a condition of employment and
 21 membership in the system and shall be made by payroll deductions. Every
 22 employee shall be deemed to consent to such deductions. Payment of an
 23 employee's compensation, less such payroll deductions, shall constitute a
 24 full and complete discharge and satisfaction of all claims and demands by the
 25 employee relating to remuneration for the employee's services rendered during
 26 the period covered by the payment, except with respect to the benefits
 27 provided under the system.

28 D. Each employer shall transfer to the fund manager the employer and
 29 employee contributions provided for in subsections B and C within ten working
 30 days after each payroll date. Contributions transferred after that date
 31 shall include a penalty of ten per cent per annum, compounded annually, for
 32 each day the contributions are late, such penalty to be paid by the
 33 employer. Delinquent payments due under this subsection, together with
 34 interest charges as provided in this subsection, may be recovered by action
 35 in a court of competent jurisdiction against an employer liable for the
 36 payments or, at the request of the fund manager, may be deducted from any
 37 other monies, including excise revenue taxes, payable to such employer by any
 38 department or agency of this state.

39 E. IN NO CASE SHALL MORE THAN TWELVE MONTHS OF CREDITED SERVICE BE
 40 CREDITED ON ACCOUNT OF ALL SERVICE RENDERED BY A MEMBER IN ANY ONE YEAR.

41 Sec. 5. Section 38-844.03, Arizona Revised Statutes, is amended to
 42 read:

43 38-844.03. Eligibility; participation

44 A. Any member who is eligible for a normal pension pursuant to section
 45 38-844, subsection A, ~~and~~ who has at least twenty years of credited service,

1 WHO HAS NOT ELECTED TO PARTICIPATE IN THE REVERSE DEFERRED RETIREMENT OPTION
2 PLAN PURSUANT TO SECTION 38-844.10 AND WHO IS NOT AWARDED AN ORDINARY,
3 CATASTROPHIC OR ACCIDENTAL DISABILITY PENSION is eligible to participate in
4 the deferred retirement option plan. In addition, any member who is subject
5 to section 38-858, subsection C is eligible to participate in the deferred
6 retirement option plan retroactive to the member's twentieth year of credited
7 service or on the day before the member began active military service,
8 whichever is later, if the member makes the election pursuant to this section
9 on or before resuming employment with the member's employer.

10 B. A member who elects to participate in the deferred retirement
11 option plan shall voluntarily and irrevocably:

12 1. Designate a period of participation that is not more than sixty
13 consecutive months.

14 2. Beginning on the date the member elects to participate in the
15 deferred retirement option plan, cease to accrue benefits under any other
16 provision of this article. The member's effective date of participation is
17 the first day of the month following the date the member elects to
18 participate.

19 3. Have deferred retirement option plan benefits credited to a
20 deferred retirement option plan participation account pursuant to section
21 38-844.05.

22 4. Receive benefits from the system on termination of employment at
23 the same time and in the same manner as otherwise prescribed in this article.

24 5. Agree to terminate employment on completion of the deferred
25 retirement option plan participation period designated by the member on the
26 appropriate deferred retirement option plan participation form.

27 C. If a member fails to terminate employment on completion of the
28 designated deferred retirement option plan participation period:

29 1. The member is not entitled to the interest accumulation on the
30 deferred retirement option plan participation account.

31 2. The deferred retirement option plan participation account shall not
32 be credited with the monthly amount prescribed in section 38-844.05,
33 subsection C, paragraph 1 and that amount shall not be paid directly to the
34 member.

35 3. The payment prescribed in section 38-844.08, subsection A,
36 paragraph 1 shall not be paid until the member terminates employment and is
37 payable at the same time as the pension amount is paid on retirement.

38 4. The member does not acquire any further credited service in the
39 system.

40 Sec. 6. Section 38-844.10, Arizona Revised Statutes, is amended to
41 read:

42 38-844.10. Reverse deferred retirement option plan

43 A. A reverse deferred retirement option plan is established. The
44 purpose of the reverse deferred retirement option plan is to add flexibility
45 to the system and to provide members who elect to participate in the reverse

1 deferred retirement option plan access to a lump sum benefit in addition to
2 their normal monthly retirement benefit on actual retirement.

3 B. The fund manager shall offer the reverse deferred retirement option
4 plan to members on a voluntary basis as an alternative method of benefit
5 accrual under the system.

6 C. Any member who is eligible for a normal pension pursuant to section
7 38-844, subsection A, who has not elected to participate in the deferred
8 retirement option plan pursuant to section 38-844.03, WHO IS NOT AWARDED AN
9 ACCIDENTAL, CATASTROPHIC OR ORDINARY DISABILITY and who has at least twenty
10 years of credited service is eligible to participate in the reverse deferred
11 retirement option plan.

12 D. A member who elects to participate in the reverse deferred
13 retirement option plan shall voluntarily and irrevocably:

14 1. Designate a reverse deferred retirement option plan date that is
15 the first day of the calendar month immediately following a member's
16 completion of twenty years of credited service or a date not more than sixty
17 consecutive months before the date the member elects to participate in the
18 reverse deferred retirement option plan, whichever is later.

19 2. Agree to terminate employment on the date the member elects to
20 participate in the reverse deferred retirement option plan.

21 3. Receive benefits from the system on termination of employment at
22 the same time and in the same manner as otherwise prescribed in this article
23 using the factors of credited service and average monthly benefit
24 compensation in effect on the reverse deferred retirement option plan date.

25 E. On election, a reverse deferred retirement option plan
26 participation account is established within the system on behalf of each
27 reverse deferred retirement option plan participant. All benefits accrued
28 pursuant to this article shall be accounted for in the reverse deferred
29 retirement option plan participation account. A reverse deferred retirement
30 option plan participant does not have a claim on the assets of the system
31 with respect to the member's reverse deferred retirement option plan
32 participation account and assets shall not be set aside for any reverse
33 deferred retirement option plan participant that are separate from all other
34 system assets.

35 F. All amounts credited to a member's reverse deferred retirement
36 option plan participation account are fully vested.

37 G. A member's reverse deferred retirement option plan participation
38 account shall be credited with the following:

39 1. An amount that is credited as though accrued monthly from the
40 reverse deferred retirement option plan date to the date the member elected
41 to participate in the reverse deferred retirement option plan and that is
42 computed in the same manner as a normal retirement benefit using the factors
43 of credited service and average monthly benefit compensation in effect on the
44 reverse deferred retirement option plan date.

2. An amount that is credited as though accrued monthly and that represents interest at a rate equal to three and one-half per cent.

H. Employee and employer contributions pursuant to section 38-843 that are deposited during the period of the reverse deferred retirement option plan are not eligible to be refunded to the employer or member.

I. The participant is not entitled to receive any amount prescribed by section 38-856 or 38-857 during the reverse deferred retirement option plan participation period.

J. The form of payment shall be a lump sum distribution. If allowed by the internal revenue service, the participant may elect to transfer the lump sum distribution to an eligible retirement plan or individual retirement account.

K. The reverse deferred retirement option plan shall not jeopardize in any way the tax qualified status of the system under the rules of the internal revenue service. The fund manager may adopt additional provisions to the extent necessary or appropriate for the reverse deferred retirement option plan to comply with applicable federal laws or rules.

Sec. 7. Section 38-846, Arizona Revised Statutes, is amended to read:

38-846. Death benefits

~~A. If the spouse of a member or retired member is surviving at such member's death, the spouse shall be eligible for a surviving spouse's pension, provided that such spouse had been married to the decedent either for a period of at least two years prior to such member's date of death or during such member's service.~~ THE SURVIVING SPOUSE OF A DECEASED RETIRED MEMBER SHALL BE PAID A SURVIVING SPOUSE'S PENSION IF THE SPOUSE WAS MARRIED TO THE MEMBER FOR A PERIOD OF AT LEAST TWO CONSECUTIVE YEARS AT THE TIME OF THE MEMBER'S DEATH. Payment of a surviving spouse's pension shall commence as of the last day of the month following the ~~member's or~~ retired member's date of death. The last payment shall be made as of the last day of the month in which the surviving spouse's death occurs.

B. THE SURVIVING SPOUSE OF A DECEASED MEMBER SHALL BE PAID A SURVIVING SPOUSE'S PENSION IF THE SPOUSE WAS MARRIED TO THE MEMBER ON THE DATE OF THE MEMBER'S DEATH. PAYMENT OF A SURVIVING SPOUSE'S PENSION COMMENCES AS OF THE LAST DAY OF THE MONTH FOLLOWING THE MEMBER'S DATE OF DEATH. THE LAST PAYMENT SHALL BE MADE AS OF THE LAST DAY OF THE MONTH IN WHICH THE SURVIVING SPOUSE'S DEATH OCCURS.

C. The surviving spouse of a deceased retired member ~~shall~~ IS ENTITLED TO receive a monthly amount equal to four-fifths of the monthly amount of pension ~~which~~ THAT the decedent would have received immediately before death. ~~The surviving spouse of a deceased member who was not killed in the line of duty or did not die from injuries suffered in the line of duty shall receive a monthly amount computed as for the surviving spouse of a deceased retired member, under the assumption that the member had retired for reason of accidental disability immediately before death. The surviving spouse of a deceased member who is killed in the line of duty or dies from injuries~~

~~suffered in the line of duty is entitled to receive a monthly amount equal to the deceased member's average monthly benefit compensation less any amount payable for an eligible child under this section. A member who was eligible for or receiving a temporary disability pension at the time of the member's death is not deemed to be retired for the purposes of this subsection. For the purposes of this subsection, "killed in the line of duty" means the decedent's death was the direct and proximate result of the performance of the decedent's public safety duties and does not include suicide.~~

D. THE SURVIVING SPOUSE OF A DECEASED MEMBER WHO WAS NOT KILLED IN THE LINE OF DUTY OR DID NOT DIE FROM INJURIES SUFFERED IN THE LINE OF DUTY IS ENTITLED TO RECEIVE A MONTHLY AMOUNT CALCULATED IN THE SAME MANNER AS AN ACCIDENTAL DISABILITY PENSION IS CALCULATED PURSUANT TO SECTION 38-845, SUBSECTION B. THE SURVIVING SPOUSE OF A DECEASED MEMBER WHO IS KILLED IN THE LINE OF DUTY OR DIES FROM INJURIES SUFFERED IN THE LINE OF DUTY IS ENTITLED TO RECEIVE A MONTHLY AMOUNT EQUAL TO THE DECEASED MEMBER'S AVERAGE MONTHLY BENEFIT COMPENSATION LESS ANY AMOUNT PAYABLE FOR AN ELIGIBLE CHILD UNDER THIS SECTION. A MEMBER WHO WAS ELIGIBLE FOR OR RECEIVING A TEMPORARY DISABILITY PENSION AT THE TIME OF THE MEMBER'S DEATH IS NOT DEEMED TO BE RETIRED FOR THE PURPOSES OF THIS SUBSECTION. FOR THE PURPOSES OF THIS SUBSECTION, "KILLED IN THE LINE OF DUTY" MEANS THE DECEDENT'S DEATH WAS THE DIRECT AND PROXIMATE RESULT OF THE PERFORMANCE OF THE DECEDENT'S PUBLIC SAFETY DUTIES AND DOES NOT INCLUDE SUICIDE.

E. A SURVIVING SPOUSE SHALL FILE A WRITTEN APPLICATION WITH THE SYSTEM IN ORDER TO RECEIVE A SURVIVOR BENEFIT.

~~E.~~ F. If at least one eligible child is surviving at the death of a member or retired member, but no surviving spouse's pension then becomes payable, a guardian's or conservator's pension shall be payable to the person who is serving, or who is deemed by the local board to be serving, as the legally appointed guardian or custodian of the eligible child. If an eligible child of a member or retired member is surviving at the member's or retired member's death, the eligible child is entitled to receive a child's pension payable to the person who is serving or who is deemed by the local board to be serving as the legally appointed guardian or custodian of the eligible child. A CHILD'S PENSION OR A GUARDIAN'S OR CONSERVATOR'S PENSION TERMINATES IF THE CHILD IS ADOPTED. IN THE CASE OF A DISABLED CHILD, THE CHILD'S PENSION OR THE GUARDIAN'S OR CONSERVATOR'S PENSION TERMINATES IF THE CHILD CEASES TO BE UNDER A DISABILITY OR CEASES TO BE A DEPENDENT OF THE SURVIVING SPOUSE OR GUARDIAN. The member may also direct by designation to the local board that the guardian or conservator pension or child's pension be paid to the trustee of a trust created for the benefit of the eligible child. A guardian's or conservator's pension shall also become payable if at least one eligible child is surviving when a surviving spouse's pension terminates. THE GUARDIAN OR CONSERVATOR SHALL FILE A WRITTEN APPLICATION WITH THE SYSTEM IN ORDER TO RECEIVE THE GUARDIAN'S OR CONSERVATOR'S PENSION AND CHILD'S PENSION.

~~D.~~ G. The fund manager shall pay a guardian's or conservator's pension during the same period in which a pension is payable to at least one eligible child. The guardian, conservator or designated trustee is entitled to receive the same monthly amount as would have been payable to the decedent's surviving spouse had a surviving spouse's pension become payable ~~upon~~ ON the decedent's death.

~~E.~~ H. Each eligible child is entitled to a monthly amount equal to one-tenth of the monthly amount of pension ~~which~~ THAT the deceased member or retired member would have received immediately ~~prior to~~ BEFORE death. THE PENSION FOR A CHILD OF A DECEASED MEMBER SHALL BE CALCULATED IN THE SAME MANNER AS AN ACCIDENTAL DISABILITY IS CALCULATED PURSUANT TO SECTION 38-845, SUBSECTION B. A deceased member shall be assumed to be retired for reasons of accidental disability immediately before the member's death. If there are three or more children eligible for a child's pension, a maximum of two shares of the child's pension shall be payable, the aggregate of such shares to be apportioned in equal measure to each eligible child.

~~F.~~ I. If a member has accumulated contributions remaining in the system at the date of death of the last beneficiary, a lump sum refund of such accumulated contributions shall be payable to the person whom the member has designated as the member's refund beneficiary, or if the member's refund beneficiary is not then surviving, to the designated contingent refund beneficiary, or if the designated contingent refund beneficiary is not then surviving, to such person nearest of kin as selected by the local board. The amount of the lump sum refund shall be the remaining accumulated contributions. THE BENEFICIARY OR PERSON WHO IS SELECTED AS NEAREST OF KIN SHALL FILE A WRITTEN APPLICATION IN ORDER TO RECEIVE THE REFUND.

~~G.~~ J. In calculating the right to and the amount of the surviving spouse's pension, the law in effect on the date of the death of the member or retired member controls, unless the law under which the member retired provides for a greater benefit amount for a surviving spouse.

Sec. 8. Section 38-847, Arizona Revised Statutes, is amended to read:

38-847. Local boards

A. The administration of the system and responsibility for making the provisions of the system effective for each employer are vested in a local board. The department of public safety, the Arizona game and fish department, the department of emergency and military affairs, the university of Arizona, Arizona state university, northern Arizona university, each county sheriff's office, each county attorney's office, each county parks department, each municipal fire department, each eligible fire district, each community college district, each municipal police department, the department of law, the department of administration, the department of liquor licenses and control, the Arizona department of agriculture, the Arizona state parks board, each Indian reservation police agency and each Indian reservation fire fighting agency shall have a local board. A nonprofit corporation operating

1 pursuant to sections 28-8423 and 28-8424 shall have one board for all of its
2 members. Each local board shall be constituted as follows:

3 1. For political subdivisions or Indian tribes, the mayor or chief
4 elected official or a designee of the mayor or chief elected official
5 approved by the respective governing body as chairman, two members elected by
6 secret ballot by members employed by the appropriate employer and two
7 citizens, one of whom shall be the head of the merit system if it exists for
8 the group of members, appointed by the mayor or chief elected official and
9 with the approval of the governing body of the city or the governing body of
10 the employer. The appointed two citizens shall serve on both local boards in
11 a city or Indian tribes where both fire and police department employees are
12 members.

13 2. For state agencies and nonprofit corporations operating pursuant to
14 sections 28-8423 and 28-8424, two members elected by secret ballot by members
15 employed by the appropriate employer and three citizens appointed by the
16 governor. Each state agency local board shall elect a chairman.

17 3. For fire districts organized pursuant to section 48-804, the
18 secretary-treasurer as chairman, two members elected by secret ballot by
19 members employed by the fire district and two citizens appointed by the
20 secretary-treasurer, one of whom is a resident of the fire district and one
21 of whom has experience in personnel administration but who is not required to
22 be a resident of the fire district.

23 B. ~~Upon~~ ON the taking effect of this system for an employer, the
24 appointments and elections of board members shall take place with one
25 elective and appointive board member serving a term ending two years after
26 the effective date of participation for the employer and other local board
27 members serving a term ending four years after the effective date.
28 Thereafter, every second year, and as a vacancy occurs, an office shall be
29 filled for a term of four years in the same manner as previously provided.

30 C. EACH LOCAL BOARD SHALL BE FULLY CONSTITUTED PURSUANT TO SUBSECTION
31 A OF THIS SECTION WITHIN SIXTY DAYS AFTER THE EMPLOYER'S EFFECTIVE DATE OF
32 PARTICIPATION IN THE SYSTEM. IF THE DEADLINE IS NOT MET, ON THE WRITTEN
33 REQUEST OF ANY MEMBER WHO IS COVERED BY THE LOCAL BOARD OR THE EMPLOYER TO
34 THE FUND MANAGER, THE FUND MANAGER MAY APPOINT ALL VACANCIES OF THE LOCAL
35 BOARD PURSUANT TO SUBSECTION A OF THIS SECTION AND DESIGNATE WHETHER EACH
36 APPOINTEE POSITION IS FOR A TWO YEAR OR FOUR YEAR TERM. IF THE FUND MANAGER
37 CANNOT FIND INDIVIDUALS TO SERVE ON THE LOCAL BOARD WHO MEET THE REQUIREMENTS
38 OF SUBSECTION A OF THIS SECTION, THE FUND MANAGER MAY APPOINT INDIVIDUALS TO
39 SERVE AS INTERIM LOCAL BOARD MEMBERS UNTIL QUALIFIED INDIVIDUALS ARE
40 APPOINTED OR ELECTED. Each member of a local board, within ten days after
41 the member's appointment or election, shall take an oath of office that, so
42 far as it devolves ~~upon~~ ON the member, the member shall diligently and
43 honestly administer the affairs of the local board and that the member shall
44 not knowingly violate or willingly permit to be violated any of the
45 provisions of law applicable to the system.

1 D. Except as limited by subsection E of this section, a local board
2 shall have such powers as may be necessary to discharge the following duties:

3 1. To decide all questions of eligibility and service credits, and
4 determine the amount, manner and time of payment of any benefits under the
5 system.

6 2. To prescribe procedures to be followed by claimants in filing
7 applications for benefits.

8 3. To make a determination as to the right of any claimant to a
9 benefit and to afford any claimant or the fund manager, or both, a right to a
10 rehearing on the original determination. Unless all parties involved in a
11 matter presented to the local board for determination otherwise agree, the
12 local board shall commence a hearing on the matter within ninety days after
13 the date the matter is presented to the local board for determination. If a
14 local board fails to commence a hearing as provided in this paragraph, on a
15 matter presented to the board for determination, the relief demanded by the
16 party petitioning the board is deemed granted and approved by the board. The
17 granting and approval of this relief is considered final and binding unless a
18 timely request for rehearing or appeal is made as provided in this article,
19 **UNLESS THE FUND MANAGER DETERMINES THAT GRANTING THE RELIEF REQUESTED WOULD**
20 **VIOLATE THE INTERNAL REVENUE CODE OR THREATEN TO IMPAIR THE SYSTEM'S STATUS**
21 **AS A QUALIFIED PLAN UNDER THE INTERNAL REVENUE CODE. IF THE FUND MANAGER**
22 **DETERMINES THAT GRANTING THE REQUESTED RELIEF WOULD VIOLATE THE INTERNAL**
23 **REVENUE CODE OR THREATEN TO IMPAIR THE SYSTEM'S STATUS AS A QUALIFIED PLAN,**
24 **THE FUND MANAGER MAY REFUSE TO GRANT THE RELIEF BY ISSUING A WRITTEN**
25 **DETERMINATION TO THE LOCAL BOARD AND THE PARTY PETITIONING THE LOCAL BOARD**
26 **FOR RELIEF. THE DECISION BY THE FUND MANAGER IS SUBJECT TO JUDICIAL REVIEW**
27 **PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.**

28 4. To request and receive from the employers and from members such
29 information as is necessary for the proper administration of the system and
30 action on claims for benefits and to forward such information to the fund
31 manager.

32 5. To distribute, in such manner as the local board determines to be
33 appropriate, information explaining the system received from the fund
34 manager.

35 6. To furnish the employer, the fund manager, and the legislature,
36 ~~upon~~ **ON** request, with such annual reports with respect to the administration
37 of the system as are reasonable and appropriate.

38 7. To receive and review the actuarial valuation of the system for its
39 group of members.

40 8. To receive and review reports of the financial condition and of the
41 receipts and disbursements of the fund from the fund manager.

42 9. To appoint medical boards as provided in section 38-859.

43 10. To sue and be sued to effectuate the duties and responsibilities
44 set forth in this article.

1 E. A local board shall have no power to add to, subtract from, modify
2 or waive any of the terms of the system, change or add to any benefits
3 provided by the system or waive or fail to apply any requirement of
4 eligibility for membership or benefits under the system. NOTWITHSTANDING ANY
5 LIMITATIONS PERIODS IMPOSED IN THIS ARTICLE, INCLUDING SUBSECTION D,
6 PARAGRAPH 3 OF THIS SECTION AND SUBSECTIONS G AND H OF THIS SECTION, IF THE
7 FUND MANAGER DETERMINES A LOCAL BOARD DECISION VIOLATES THE INTERNAL REVENUE
8 CODE OR THREATENS TO IMPAIR THE SYSTEM'S STATUS AS A QUALIFIED PLAN UNDER THE
9 INTERNAL REVENUE CODE, THE LOCAL BOARD'S DECISION IS NOT FINAL AND BINDING
10 AND THE FUND MANAGER MAY REFRAIN FROM IMPLEMENTING OR COMPLYING WITH THE
11 LOCAL BOARD DECISION.

12 F. A local board, from time to time, shall establish and adopt such
13 rules as it deems necessary or desirable for its administration. All rules
14 and decisions of a board shall be uniformly and consistently applied to all
15 members in similar circumstances. If a claim or dispute is presented to a
16 local board for determination but the local board has not yet adopted uniform
17 rules of procedure for adjudication of the claim or dispute, the local board
18 shall adopt and use the model uniform rules of local board procedure that are
19 issued by the fund manager's fiduciary counsel to adjudicate the claim or
20 dispute.

21 G. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, any action by a
22 majority vote of the members of a local board ~~which~~ THAT is not inconsistent
23 with the provisions of the system AND THE INTERNAL REVENUE CODE shall be
24 final, conclusive and binding ~~upon~~ ON all persons affected by it unless a
25 timely application for a rehearing or appeal is filed as provided in this
26 article. NO LATER THAN TWENTY BUSINESS DAYS AFTER TAKING ACTION, THE LOCAL
27 BOARD SHALL SUBMIT TO THE FUND MANAGER THE NAME OF THE MEMBER AFFECTED BY ITS
28 DECISION, A DESCRIPTION OF THE ACTION TAKEN AND AN EXPLANATION OF THE REASONS
29 SUPPORTING THE LOCAL BOARD'S ACTION. THE FUND MANAGER MAY NOT IMPLEMENT AND
30 COMPLY WITH ANY LOCAL BOARD ACTION THAT DOES NOT COMPLY WITH THE INTERNAL
31 REVENUE CODE OR THAT THREATENS TO JEOPARDIZE THE SYSTEM'S STATUS AS A
32 QUALIFIED PLAN UNDER THE INTERNAL REVENUE CODE.

33 H. A claimant or the fund manager may apply for a rehearing before the
34 local board within the time ~~period~~ PERIODS prescribed in this subsection,
35 EXCEPT THAT IF A DECISION OF A LOCAL BOARD VIOLATES THE INTERNAL REVENUE CODE
36 OR THREATENS TO JEOPARDIZE THE SYSTEM'S STATUS AS A QUALIFIED PLAN UNDER THE
37 INTERNAL REVENUE CODE, NO LIMITATION PERIOD FOR THE FUND MANAGER TO SEEK A
38 REHEARING OF A LOCAL BOARD DECISION APPLIES. An application for a rehearing
39 shall be filed in writing with a member of the local board or its secretary
40 within sixty days after:

41 1. The applicant-claimant receives notification of the local board's
42 original action by certified mail, by attending the meeting at which the
43 action is taken or by receiving benefits from the system pursuant to the
44 local board's original action, whichever occurs first.

2. The applicant-fund manager receives notification of the local board's original action **AS PRESCRIBED BY SUBSECTION G OF THIS SECTION** by certified mail ~~or by receipt of written directions from the local board pursuant to its original action, whichever occurs first.~~

I. A hearing before a local board on a matter remanded from the superior court is not subject to a rehearing before the local board.

J. Decisions of local boards are subject to judicial review pursuant to title 12, chapter 7, article 6.

K. When making a ruling, determination or calculation, the local board shall be entitled to rely ~~upon~~ **ON** information furnished by the employer, the fund manager, independent legal counsel or the actuary for the system.

L. Each member of a local board is entitled to one vote. A majority ~~of the appointed and elected members~~ is necessary for a decision by the members of a local board at any meeting of the local board.

M. The local board shall adopt such bylaws as it deems desirable. The local board shall elect a secretary who may, but need not, be a member of the local board. The secretary of the local board shall keep a record and prepare minutes of all meetings, forward the minutes to the fund manager within forty-five days after each meeting and forward all necessary communications to the fund manager.

N. The fees of the medical board and of the local board's independent legal counsel and all other expenses of the local board necessary for the administration of the system shall be paid by the employer **AND NOT THE FUND MANAGER OR SYSTEM** at such rates and in such amounts as the local board shall approve. Legal counsel that is employed by the local board is independent of the employer and any employee organization or member and owes its duty of loyalty only to the local board in connection with its representation of the local board.

O. The local board shall issue directions to the fund manager concerning all benefits ~~which~~ **THAT** are to be paid from the employer's account pursuant to the provisions of the fund. The local board shall keep on file, in such manner as it may deem convenient or proper, all reports from the fund manager and the actuary.

P. The local board and the individual members of the local board shall be indemnified from the assets of the ~~employer's account in the fund against any and all liabilities arising by reason of~~ **EMPLOYER FOR ANY JUDGMENT AGAINST THE LOCAL BOARD OR ITS MEMBERS, INCLUDING ATTORNEY FEES AND COSTS, ARISING FROM** any act, or failure to act, made in good faith pursuant to the provisions of the system, including expenses reasonably incurred in the defense of any claim relating to the act or failure to act.

Sec. 9. Section 38-848, Arizona Revised Statutes, is amended to read:

38-848. Fund manager

A. The fund manager shall consist of five members and shall have the rights, powers and duties that are set forth in this section. The term of office of members shall be three years to expire on the third Monday in

1 January of the appropriate year. Members are eligible to receive
2 compensation in an amount of fifty dollars a day, but not to exceed one
3 thousand dollars in any one fiscal year, and are eligible for reimbursement
4 of expenses pursuant to chapter 4, article 2 of this title. The fund manager
5 consists of the following members appointed by the governor pursuant to
6 section 38-211:

7 1. One elected member from a local board to represent the employees.

8 2. One member to represent this state as an employer of public safety
9 personnel. This member shall have the qualifications prescribed in
10 subsection R of this section.

11 3. One member to represent the cities as employers of public safety
12 personnel.

13 4. An elected county or state official or a judge of the superior
14 court, court of appeals or supreme court.

15 5. One public member. This member shall have the qualifications
16 prescribed in subsection R of this section.

17 B. All monies in the fund shall be deposited and held in a public
18 safety personnel retirement system depository. Monies in the fund shall be
19 disbursed from the depository separate and apart from all monies or funds of
20 this state and the agencies, instrumentalities and subdivisions of this
21 state, except that the fund manager may commingle the assets of the fund and
22 the assets of all other plans entrusted to its management **IN ONE OR MORE**
23 **GROUP TRUSTS**, subject to the crediting of receipts and earnings and charging
24 of payments to the appropriate employer, system or plan. The monies shall be
25 secured by the depository in which they are deposited and held to the same
26 extent and in the same manner as required by the general depository law of
27 this state. For purposes of making the decision to invest in securities
28 owned by the fund or any plan administered by the fund manager, the fund and
29 assets of the plans are subject to the sole management of the fund manager
30 for the purpose of this article except that, on the fund manager's election
31 to invest in a particular security or make a particular investment, the
32 assets comprising the security or investment may be chosen and managed by
33 third parties approved by the fund manager. The fund manager may invest in
34 portfolios of securities chosen and managed by a third party. The fund
35 manager's decision to invest in securities such as mutual funds, commingled
36 investment funds, exchange traded funds, private equity or venture capital
37 limited partnerships, real estate limited partnerships or limited liability
38 companies and real estate investment trusts whose assets are chosen and
39 managed by third parties does not constitute an improper delegation of the
40 fund manager's investment authority.

41 C. All contributions under this system and other retirement plans that
42 the fund manager administers shall be forwarded to the fund manager and shall
43 be held, invested and reinvested by the fund manager as provided in this
44 article. All property and monies of the fund and other retirement plans that
45 the fund manager administers, including income from investments and from all

1 other sources, shall be retained for the exclusive benefit of members, as
2 provided in the system and other retirement plans that the fund manager
3 administers, and shall be used to pay benefits to members or their
4 beneficiaries or to pay expenses of operation and administration of the
5 system and fund and other retirement plans that the fund manager administers.

6 D. The fund manager shall have the full power in its sole discretion
7 to invest and reinvest, alter and change the monies accumulated under the
8 system and other retirement plans that the fund manager administers as
9 provided in this article. In addition to its power to make investments
10 managed by others, the fund manager may delegate the authority the fund
11 manager deems necessary and prudent to investment management pursuant to
12 section 38-848.03, as well as to the administrator, employed by the fund
13 manager pursuant to subsection K, paragraph 6 of this section, and any
14 assistant administrators to invest the monies of the system and other
15 retirement plans that the fund manager administers if the administrator,
16 investment management and any assistant administrators follow the investment
17 policies that are promulgated by the fund manager. The fund manager may
18 commingle securities and monies of the fund, the elected officials'
19 retirement plan, the corrections officer retirement plan and other plans or
20 monies entrusted to its care, subject to the crediting of receipts and
21 earnings and charging of payments to the account of the appropriate employer,
22 system or plan. In making every investment, the fund manager shall exercise
23 the judgment and care under the circumstances then prevailing which persons
24 of ordinary prudence, discretion and intelligence exercise in the management
25 of their own affairs, not in regard to speculation but in regard to the
26 permanent disposition of their funds, considering the probable income from
27 their funds as well as the probable safety of their capital, provided:

28 1. That not more than eighty per cent of the combined assets of the
29 system or other plans that the fund manager manages shall be invested at any
30 given time in corporate stocks, based on cost value of such stocks
31 irrespective of capital appreciation.

32 2. That no more than five per cent of the combined assets of the
33 system or other plans that the fund manager manages shall be invested in
34 corporate stock issued by any one corporation, other than corporate stock
35 issued by corporations chartered by the United States government or corporate
36 stock issued by a bank or insurance company.

37 3. That not more than five per cent of the voting stock of any one
38 corporation shall be owned by the system and other plans that the fund
39 manager administers, except that this limitation does not apply to membership
40 interests in limited liability companies.

41 4. That corporate stocks and exchange traded funds eligible for
42 purchase shall be restricted to stocks and exchange traded funds that, except
43 for bank stocks, insurance stocks and membership interests in limited
44 liability companies, are either:

1 (a) Listed or approved on issuance for listing on an exchange
2 registered under the securities exchange act of 1934, as amended (15 United
3 States Code sections 78a through 7811).

4 (b) Designated or approved on notice of issuance for designation on
5 the national market system of a national securities association registered
6 under the securities exchange act of 1934, as amended (15 United States Code
7 sections 78a through 7811).

8 (c) Listed or approved on issuance for listing on an exchange
9 registered under the laws of this state or any other state.

10 (d) Listed or approved on issuance for listing on an exchange of a
11 foreign country with which the United States is maintaining diplomatic
12 relations at the time of purchase, except that no more than twenty per cent
13 of the combined assets of the system and other plans that the fund manager
14 manages shall be invested in foreign securities, based on the cost value of
15 the stocks irrespective of capital appreciation.

16 (e) An exchange traded fund that is recommended by the chief
17 investment officer of the system, that is registered under the investment
18 company act of 1940 (15 United States Code sections 80a-1 through 80a-64) and
19 that is both traded on a public exchange and based on a publicly recognized
20 index.

21 E. Notwithstanding any other law, the fund manager shall not be
22 required to invest in any type of investment that is dictated or required by
23 any entity of the federal government and that is intended to fund economic
24 development projects, public works or social programs, but may consider such
25 economically targeted investments pursuant to its fiduciary responsibility.
26 The fund manager, on behalf of the system **AND ALL OTHER PLANS OR TRUSTS THE**
27 **FUND MANAGER ADMINISTERS**, may invest in, lend monies to or guarantee the
28 repayment of monies by a limited liability company, limited partnership,
29 joint venture, partnership, limited liability partnership or trust in which
30 the system ~~has~~ **AND PLANS OR TRUSTS HAVE** a financial interest, whether the
31 entity is closely held or publicly traded and that, in turn, may be engaged
32 in any lawful activity, including venture capital, private equity, the
33 ownership, development, management, improvement or operation of real property
34 and any improvements or businesses on real property or the lending of monies.

35 F. Conference call meetings of the fund manager of the public safety
36 personnel retirement system that are held for investment purposes only are
37 not subject to chapter 3, article 3.1 of this title, except that the fund
38 manager shall maintain minutes of these conference call meetings and make
39 them available for public inspection within twenty-four hours after the
40 meeting. The fund manager shall review the minutes of each conference call
41 meeting and shall ratify all legal actions taken during each conference call
42 meeting at the next scheduled meeting of the fund manager.

43 G. The fund manager shall not be held liable for the exercise of more
44 than ordinary care and prudence in the selection of investments and
45 performance of its duties under the system and shall not be limited to

1 so-called "legal investments for trustees", but all monies of the system and
2 other plans that the fund manager administers shall be invested subject to
3 all of the conditions, limitations and restrictions imposed by law.

4 H. Except as provided in subsection D of this section, the fund
5 manager may:

6 1. Invest and reinvest the principal and income of all assets that the
7 fund manager manages without distinction between principal and income.

8 2. Sell, exchange, convey, transfer or otherwise dispose of any
9 investments made on behalf of the system or other plans the fund manager
10 administers in the name of the system or plans by private contract or at
11 public auction.

12 3. Also:

13 (a) Vote on any stocks, bonds or other securities.

14 (b) Give general or special proxies or powers of attorney with or
15 without power of substitution.

16 (c) Exercise any conversion privileges, subscription rights or other
17 options and make any payments incidental to the exercise of the conversion
18 privileges, subscription rights or other options.

19 (d) Consent to or otherwise participate in corporate reorganizations
20 or other changes affecting corporate securities, delegate discretionary
21 powers and pay any assessments or charges in connection therewith.

22 (e) Generally exercise any of the powers of an owner with respect to
23 stocks, bonds, securities or other investments held in or owned by the system
24 or other plans whose assets the fund manager administers.

25 4. Make, execute, acknowledge and deliver any other instruments that
26 may be necessary or appropriate to carry out the powers granted in this
27 section.

28 5. Register any investment held by the system or other plans whose
29 assets the fund manager administers in the name of the system or plan or in
30 the name of a nominee OR TRUST.

31 6. At the expense of the system or other plans that the fund manager
32 administers, enter into an agreement with any bank or banks for the
33 safekeeping and handling of securities and other investments coming into the
34 possession of the fund manager. The agreement shall be entered into under
35 terms and conditions that secure the proper safeguarding, inventory,
36 withdrawal and handling of the securities and other investments. No access
37 to and no deposit or withdrawal of the securities from any place of deposit
38 selected by the fund manager shall be permitted or made except as the terms
39 of the agreement may provide.

40 7. Appear before local boards and the courts of this state and
41 political subdivisions of this state through counsel or appointed
42 representative to protect the fund or the assets of other plans that the fund
43 manager administers. The fund manager is not responsible for the actions or
44 omissions of the local boards under this system but may seek review or
45 rehearing of actions or omissions of local boards. The fund manager does not

1 have a duty to review actions of the local boards but may do so in its
 2 discretion in order to protect the fund. NO LIMITATIONS PERIOD PRECLUDES THE
 3 FUND MANAGER OR ADMINISTRATOR FROM CONTESTING, OR REQUIRES THE FUND MANAGER
 4 OR ADMINISTRATOR TO IMPLEMENT OR COMPLY WITH, A LOCAL BOARD DECISION THAT
 5 VIOLATES THE INTERNAL REVENUE CODE OR THAT THREATENS TO IMPAIR THE TAX
 6 QUALIFIED STATUS OF THE SYSTEM OR ANY PLAN ADMINISTERED BY THE FUND MANAGER
 7 OR ADMINISTRATOR.

8 8. Empower the fund administrator to take actions on behalf of the
 9 fund manager that are necessary for the protection and administration of the
 10 fund or the assets of other plans that the fund manager administers pursuant
 11 to the guidelines of the fund manager.

12 9. Do all acts, whether or not expressly authorized, that may be
 13 deemed necessary or proper for the protection of the investments held in the
 14 fund or owned by other plans OR TRUSTS that the fund manager administers.

15 10. SETTLE THREATENED OR ACTUAL LITIGATION AGAINST ANY SYSTEM OR PLAN
 16 THAT THE FUND MANAGER ADMINISTERS.

17 I. Investment expenses and operation and administrative expenses of
 18 the fund manager shall be accounted for separately and allocated against
 19 investment income.

20 J. The fund manager, as soon as possible within a period of six months
 21 following the close of any fiscal year, shall transmit to the governor and
 22 the legislature a comprehensive annual financial report on the operation of
 23 the system and other plans that the fund manager administers containing,
 24 among other things:

25 1. A balance sheet.

26 2. A statement of income and expenditures for the year.

27 3. A report on an actuarial valuation of its assets and liabilities.

28 ~~4. A detailed statement of the investments acquired and disposed of~~
 29 ~~during the year.~~

30 ~~5.~~ 4. A list of investments owned.

31 ~~6.~~ 5. The total rate of return, yield on cost, and per cent of cost
 32 to market value of the fund and the assets of other plans that the fund
 33 manager administers.

34 ~~7.~~ 6. Any other statistical and financial data that may be necessary
 35 for the proper understanding of the financial condition of the system and
 36 other plans that the fund manager administers and the results of their
 37 operations. A synopsis of the annual report shall be published for the
 38 information of members of the system, the elected officials' retirement plan
 39 or the corrections officer retirement plan.

40 K. The fund manager shall:

41 1. Maintain the accounts of the system and other plans that the fund
 42 manager administers and issue statements to each employer annually and to
 43 each member who may request it.

44 2. Report the results of the actuarial valuations to the local boards
 45 and employers.

1 3. Contract on a fee basis with an independent investment counsel to
2 advise the fund manager in the investment management of the fund and assets
3 of other plans that the fund manager administers and with an independent
4 auditing firm to audit the fund manager's accounting.

5 4. Permit the auditor general to make an annual audit and the results
6 shall be transmitted to the governor and the legislature.

7 5. Contract on a fee basis with an actuary who shall make actuarial
8 valuations of the system and other plans that the fund manager administers,
9 be the technical adviser of the fund manager on matters regarding the
10 operation of the funds created by the provisions of the system, the elected
11 officials' retirement plan, the corrections officer retirement plan and the
12 fire fighter and peace officer cancer insurance policy program and perform
13 other duties required in connection therewith. The actuary must be a member
14 of a nationally recognized association or society of actuaries.

15 6. Employ, as administrator, a person, state department or other body
16 to serve at the pleasure of the fund manager.

17 7. Establish procedures and guidelines for contracts with actuaries,
18 auditors, investment counsel and legal counsel and for safeguarding of
19 securities.

20 L. The administrator, under the direction of the fund manager, shall:

21 1. Administer this article.

22 2. Invest the funds of the system and other plans that the fund
23 manager administers as the fund manager deems necessary and prudent as
24 provided in subsections D and H of this section and subject to the investment
25 policies and fund objectives promulgated by the fund manager.

26 3. Establish and maintain an adequate system of accounts and records
27 for the system and other plans that the fund manager administers, which shall
28 be integrated with the accounts, records and procedures of the employers so
29 that the system and other plans that the fund manager administers operates
30 most effectively and at minimum expense and that duplication of records and
31 accounts is avoided.

32 4. In accordance with the fund manager's governance policy and
33 personnel rules and procedures and the budget adopted by the fund manager,
34 hire such employees and services the administrator deems necessary and
35 prescribe their duties, including the hiring of one or more assistant
36 administrators to manage the system's operations, investments and legal
37 affairs.

38 5. Be responsible for income, the collection of the income and the
39 accuracy of all expenditures.

40 6. Recommend to the fund manager annual contracts for the system's
41 actuary, auditor, investment counsel, legal counsel and safeguarding of
42 securities.

43 7. Perform additional duties and powers prescribed by the fund manager
44 and delegated to the administrator.

1 M. The system is an independent trust fund and the fund manager, the
2 administrator, the assistant administrators and all persons employed by them
3 are not under the jurisdiction of the department of administration or any
4 other agency, department or instrumentality of this state or subject to
5 section 38-611 or title 41, chapter 4 or 6. The salaries of the
6 administrator, assistant administrators and other employees of the fund
7 manager are the sole determination of the fund manager. Contracts for goods
8 and services approved by the fund manager are not subject to title 41,
9 chapter 23. As an independent trust fund whose assets are separate and apart
10 from all other funds of this state, the system and the fund manager are not
11 subject to the restrictions prescribed in section 35-154 or article IX,
12 sections 5 and 8, Constitution of Arizona. **THE REQUIREMENTS AND**
13 **CERTIFICATIONS PRESCRIBED IN SECTION 35-214, SECTION 35-391.06, SUBSECTION A,**
14 **SECTION 35-393.06, SUBSECTION B AND EXECUTIVE ORDERS 99-4 AND 2005-30 DO NOT**
15 **APPLY TO INVESTMENT CONTRACTS MADE BY THE FUND MANAGER OR TO ANY CONTRACT**
16 **MADE BY THE FUND MANAGER THAT IS SUBJECT TO THE LAWS OF A STATE OR NATION**
17 **OTHER THAN THIS STATE.**

18 N. The attorney general or an attorney approved by the attorney
19 general and paid by the fund shall be the attorney for the fund manager and
20 shall represent the fund manager in any legal proceeding or forum that the
21 fund manager deems appropriate. The fund manager, administrator, assistant
22 administrators and employees of the fund manager are not personally liable
23 for any acts done in their official capacity in good faith reliance on the
24 written opinions of the fund manager's attorney.

25 O. At least once in each five-year period after the effective date,
26 the actuary shall make an actuarial investigation into the mortality, service
27 and compensation experience of the members and beneficiaries of the system
28 and other plans that the fund manager administers and shall make a special
29 valuation of the assets and liabilities of the monies of the system and
30 plans. Taking into account the results of the investigation and special
31 valuation, the fund manager shall adopt for the system and other plans that
32 the fund manager administers those mortality, service and other tables deemed
33 necessary.

34 P. On the basis of the tables the fund manager adopts, the actuary
35 shall make a valuation of the assets and liabilities of the funds of the
36 system and other plans that the fund manager administers not less frequently
37 than every year. By November 1 of each year the fund manager shall provide a
38 preliminary report and by December 15 of each year provide a final report to
39 the governor, the speaker of the house of representatives and the president
40 of the senate on the contribution rate for the ensuing fiscal year.

41 Q. Neither the fund manager nor any member or employee of the fund
42 manager shall directly or indirectly, for himself or as an agent, in any
43 manner use the monies or deposits of the fund except to make current and
44 necessary payments, nor shall the fund manager or any member or employee
45 become an endorser or surety or in any manner an obligor for monies loaned by

1 or borrowed from the fund or the assets of any other plans that the fund
2 manager administers.

3 R. The members of the fund manager who are appointed pursuant to
4 subsection A, paragraphs 2 and 5 of this section shall have at least ten
5 years' substantial experience as any one or a combination of the following:

6 1. A portfolio manager acting in a fiduciary capacity.

7 2. A securities analyst.

8 3. An employee or principal of a trust institution, investment
9 organization or endowment fund acting either in a management or an investment
10 related capacity.

11 4. A chartered financial analyst in good standing as determined by the
12 association for investment management and research.

13 5. A professor at the university level teaching economics or
14 investment related subjects.

15 6. An economist.

16 7. Any other professional engaged in the field of public or private
17 finances.

18 S. Financial or commercial information that is provided to the fund
19 manager, employees of the fund manager and attorneys of the fund manager in
20 connection with investments in which the fund manager has invested or
21 investments the fund manager has considered for investment is confidential,
22 proprietary and not a public record if the information is information that
23 would customarily not be released to the public by the person or entity from
24 whom the information was obtained.

25 Sec. 10. Section 38-848.03, Arizona Revised Statutes, is amended to
26 read:

27 38-848.03. Appointed investment management

28 A. The fund manager may appoint investment management. Investment
29 management shall have:

30 1. The highest professional and fiduciary recommendations.

31 2. Not less than three years' experience at handling institutional
32 investments of at least two hundred fifty million dollars. This paragraph is
33 satisfied if investment management, the individual retained by investment
34 management or individual employees in a firm of investment managers meet this
35 requirement.

36 3. Had responsibility for investment decision making as an insurance
37 company investment fund, an investment division of a bank, a mutual fund, an
38 investment organization or institution, a pension fund or an investment
39 adviser who is designated as a chartered financial analyst by the chartered
40 financial analyst institute.

41 B. A bank serving as investment management does not have a conflict of
42 interest because it is also a depository in which any monies administered by
43 the fund manager are deposited.

1 C. The fund manager shall appoint investment management for a term of
2 one year and may appoint the investment management to succeeding terms. The
3 fund manager may remove investment management for not complying with this
4 article or for failure to comply with or adhere to the fund manager's
5 investment goals, objectives or policies.

6 D. Investment management appointed by the fund manager:

7 1. May purchase and sell in the name of the system and other plans
8 that the fund manager administers any of the securities and investments held
9 by the system or plans.

10 2. Subject to any restrictions imposed by the fund manager, ~~are~~ IS
11 responsible for making all investment decisions relating to the investments
12 the fund manager has assigned investment management to manage.

13 E. Investment management shall not directly or indirectly:

14 1. Except for the fees agreed to be paid by the fund manager to
15 investment management or as otherwise agreed by the fund manager, have any
16 interest in the investments being managed by investment management for the
17 fund manager.

18 2. Borrow monies, funds or deposits of the system or other plans that
19 the fund manager administers or use these monies in any manner except as
20 directed under this article.

21 3. Be an endorser, surety or obligor on investments made under this
22 article.

23 F. Subject to the limitations in this article, the fund manager may
24 authorize the administrator, any assistant administrators and other in-house
25 investment professionals employed by the fund manager to make DISCRETIONARY
26 investments for the system and other plans OR TRUSTS that the fund manager
27 administers that do not exceed fifty per cent of the assets of the system and
28 other plans OR TRUSTS measured at cost.

29 G. To exercise the responsibilities prescribed in this ~~section~~
30 ARTICLE, the fund manager may enter into contracts that may be interpreted
31 and enforced under the laws of a jurisdiction other than this state and that
32 are not subject to section 35-214 or 38-511 or title 41, chapter 23.

33 Sec. 11. Section 38-849, Arizona Revised Statutes, is amended to read:

34 38-849. Limitations on receiving pension; violation;
35 classification; reemployment after severance;
36 reinstatement of service credits; reemployment of
37 retired or disabled member

38 A. If a member is convicted of, or discharged because of, theft,
39 embezzlement, fraud or misappropriation of an employer's property or property
40 under the control of the employer, the member shall be subject to restitution
41 and fines imposed by a court of competent jurisdiction. The court may order
42 the restitution or fines to be paid from any payments otherwise payable to
43 the member from the retirement system.

1 B. A person who knowingly makes any false statement or who falsifies
2 or permits to be falsified any record of the system with an intent to defraud
3 the system is guilty of a class 6 felony. If any change or error in the
4 records results in any member or beneficiary receiving from the system more
5 or less than the member or beneficiary would have been entitled to receive
6 had the records been correct, the local board shall correct such error, and
7 as far as practicable shall adjust the payments in such manner that the
8 actuarial equivalent of the benefit to which such member or beneficiary was
9 correctly entitled shall be paid. If a member is convicted of a crime
10 specified in this subsection the member shall be entitled to receive a lump
11 sum payment of the member's accumulated contributions but forfeits any future
12 compensation and benefits ~~which~~ THAT would otherwise accrue to the member or
13 the member's estate under this article.

14 C. If a member who received a severance refund ~~upon~~ ON termination of
15 employment, as provided in section 38-846.02, is subsequently reemployed by
16 an employer, the member's prior service credits shall be cancelled and
17 service shall be credited only from the date the member's most recent
18 reemployment period commenced. However, if the former member's reemployment
19 with the same employer occurred within two years after the former member's
20 termination date, and, within ninety days after reemployment the former
21 member signs a written election consenting to reimburse the fund within one
22 year, the former member shall be required to redeposit the amount withdrawn
23 at the time of the former member's separation from service, with interest
24 thereon at the rate of nine per cent for each year compounded each year from
25 the date of withdrawal to the date of repayment. ~~Upon~~ ON satisfaction of
26 this obligation the member's prior service credits shall be reinstated.

27 D. If a retired member is reemployed by an employer, no contributions
28 shall be made on the retired member's account, nor any service credited,
29 during the period of ~~such~~ THE reemployment. Notwithstanding this subsection,
30 if a retired member subsequently becomes employed in the same position by the
31 employer from which the member retired, the system shall not make pension
32 payments to the retired member during the period of reemployment. **WITHIN TEN**
33 **DAYS AFTER A RETIRED MEMBER IS REEMPLOYED BY THE EMPLOYER FROM WHICH THE**
34 **MEMBER RETIRED, THE EMPLOYER SHALL ADVISE THE FUND MANAGER IN WRITING AS TO**
35 **WHETHER THE RETIRED MEMBER HAS BEEN REEMPLOYED IN THE SAME POSITION FROM**
36 **WHICH THE MEMBER RETIRED.** On subsequent termination of employment by the
37 retired member, the retired member is entitled to receive a pension based on
38 the member's service and compensation before the date of the member's
39 reemployment. If a member who retired under disability is reemployed by an
40 employer as an employee, that member shall be treated as if the member had
41 been on an uncompensated leave of absence during the period of the member's
42 disability retirement and shall be a contributing member of the system. For
43 the purposes of this subsection, "same position" means the member is in a
44 position where the member performs duties and exercises authority that are

1 the same duties that were performed and the same authority that was exercised
2 by the member before the member's retirement.

3 E. A person who defrauds the system or who takes, converts, steals or
4 embezzles monies owned by or from the system and who fails or refuses to
5 return the monies to the system on the fund manager's written request is
6 subject to civil suit by the system in the superior court ~~of~~ IN Maricopa
7 county. On entry of an order finding the person has defrauded the system or
8 taken, converted, stolen or embezzled monies owned by or from the system, the
9 court shall enter an order against that person and for the system awarding
10 the system all of its costs and expenses of any kind, including attorney
11 fees, that were necessary to successfully prosecute the action. The court
12 shall also grant the system a judicial lien on all of the nonexempt property
13 of the person against whom judgment is entered pursuant to this subsection in
14 an amount equal to all amounts awarded to the system, plus interest at the
15 rate prescribed by section 44-1201, subsection A, until all amounts owed are
16 paid to the system.

17 F. Notwithstanding any other provision of this article, the fund
18 manager may offset against any benefits otherwise payable by the system to an
19 active or retired member or survivor any court ordered amounts awarded to the
20 fund manager and system and assessed against the member or survivor.

21 Sec. 12. Section 38-853.01, Arizona Revised Statutes, is amended to
22 read:

23 38-853.01. Redemption of prior service

24 A. Each present active member of the system may elect to redeem any
25 part of the following prior service or employment by paying into the system
26 any amounts required under subsection B if the prior service or employment is
27 not on account with any other retirement system:

28 1. Prior service in this state as an employee with an employer now
29 covered by the system or prior service with an agency of the United States
30 government, a state of the United States or a political subdivision of a
31 state of the United States as a full-time paid firefighter or full-time paid
32 certified peace officer.

33 2. Subject to any limitations prescribed by federal law, prior
34 employment as an employee ~~with~~ OF a corporation that contracted with an
35 employer now covered by the system to provide firefighting services on behalf
36 of that employer as a full-time paid firefighter ~~THAT PROVIDED FIREFIGHTING~~
37 ~~SERVICES FOR A POLITICAL SUBDIVISION OF THIS STATE.~~

38 B. Any present active member who elects to redeem any part of the
39 prior service or employment for which the employee is deemed eligible by the
40 fund manager under this section shall pay into the system the amounts
41 previously withdrawn by the member, if any, as a refund of the member's
42 accumulated contributions plus accumulated interest as determined by the fund
43 manager and the additional amount, if any, computed by the system's actuary
44 ~~which~~ THAT is necessary to equal the increase in the actuarial present value

1 of projected benefits resulting from the redemption calculated using the
2 actuarial methods and assumptions prescribed by the system's actuary.

3 Sec. 13. Legislative intent

4 The requirements and certifications prescribed in section 35-214,
5 Arizona Revised Statutes, section 35-391.06, subsection A, Arizona Revised
6 Statutes, section 35-393.06, subsection B, Arizona Revised Statutes, and
7 executive orders 99-4 and 2005-30 do not apply to an investment contract or a
8 contract that is subject to the laws of a state or nation other than this
9 state and that is entered into by the fund manager of the public safety
10 personnel retirement system pursuant to section 38-848, subsection M, Arizona
11 Revised Statutes, as those contracts do not involve the provision of goods,
12 services or materials to this state and the certifications are not required
13 for guarantees, nondisclosure agreements, acknowledgements and consents and
14 other unilateral assurances provided by the fund manager or any system, plan
15 or trust administered by the fund manager to lenders or other third parties
16 because the instruments cannot be characterized as bilateral contracts for
17 the provision by a contractor of goods, services and materials to this state.